

AGENDA – November 17, 1999 Business Taxes Committee Meeting
Proposed Amendments to Regulation 1660, *Leases of Tangible Personal Property – In General*;
Regulation 1661, *Leases of Mobile Transportation Equipment*; and
Regulation 1669, *Demonstration, Display and Use of Property Held for Resale - General*

<p>Action 1 – Amounts Not Included in Rentals Subject Tax</p>	<p>Adopt: 1) Staff's recommendation to amend Regulations 1660, 1661 and 1669 to incorporate Sales and Use Tax Annotations 330.3530 and 330.3533; or</p> <p>2) Industry's proposed amendment to Regulation 1660 to provide that personal property taxes are not included in rentals subject to tax; and, in order to achieve consistency with industry's proposed amendments to Regulation 1660, adopt similar amendments to Regulations 1661 and 1669 as drafted by staff (Exhibits 3 and 4); or</p> <p>3) Sponsor legislation to exclude personal property taxes from rentals subject to tax; or</p> <p>4) No changes to Regulation 1660</p>
<p>Action 2 – Authorization to Publish (whichever language is approved)</p>	<p>Direct the publication of the proposed amendments to Regulations 1660, 1661 and 1669, as adopted in the above actions.</p> <p>Operative Date: None Implementation: Upon OAL approval</p>

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Action Item	Staff's Proposed Language	Industry's Proposed Language
<p>Action 1 – Amounts Not Included in Rentals Subject Tax</p> <p>Exhibit 2</p>	<p>Amended Regulation 1660(c)</p> <p>(c) General Application of Tax.</p> <p>(1) Nature of Tax. In the case of a lease that is a “sale” and “purchase” the tax is measured by the rentals payable. Generally, the applicable tax is a use tax upon the use in this state of the property by the lessee. The lessor must collect the tax from the lessee at the time rentals are paid by the lessee and give him or her a receipt of the kind called for in regulation 1686 (18 CCR 1686). The lessee is not relieved from liability for the tax until he or she is given such a receipt or the tax is paid to the state.</p> <p>When the lessee is not subject to use tax (for example, insurance companies), the sales tax applies. The sales tax is upon the lessor and is measured by the rentals payable.</p> <p>Neither the sales tax nor the use tax applies to leases to the United States and its instrumentalities unless federal law permits taxing the instrumentality. For a more complete explanation regarding sales to the United States and its instrumentalities see Regulation 1614 (18 CCR 1614).</p> <p>The “rentals” subject to the tax include any payments required</p>	<p>Amended Regulation 1660(c)</p> <p>(c) General Application of Tax.</p> <p>(1) Nature of Tax. In the case of a lease that is a “sale” and “purchase” the tax is measured by the rentals payable. Generally, the applicable tax is a use tax upon the use in this state of the property by the lessee. The lessor must collect the tax from the lessee at the time rentals are paid by the lessee and give him or her a receipt of the kind called for in regulation 1686 (18 CCR 1686). The lessee is not relieved from liability for the tax until he or she is given such a receipt or the tax is paid to the state.</p> <p>When the lessee is not subject to use tax (for example, insurance companies), the sales tax applies. The sales tax is upon the lessor and is measured by the rentals payable.</p> <p>Neither the sales tax nor the use tax applies to leases to the United States and its instrumentalities unless federal law permits taxing the instrumentality. For a more complete explanation regarding sales to the United States and its instrumentalities see Regulation 1614 (18 CCR 1614).</p> <p>The “rentals” subject to the tax include any payments required</p>

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	<p>by the lease, including amounts paid for personal property taxes on the leased property, whether assessed directly against the lessee or against the lessor, but do not include amounts paid to the lessor for:</p> <p>(A) Collection costs, including attorney's fees, court costs, repossession charges, and storage fees; but tax does apply to any delinquent rental payments, including those collected by court action;</p> <p>(B) Insuring, repairing or refurbishing the leased property following a default;</p> <p>(C) Cost incurred in defending a court action or paying a tort judgment arising out of the lessee's operation of the leased property, or any premiums paid on insurance policies covering such court actions or tort judgments;</p> <p>(D) Cost incurred in disposing of the leased property at expiration or earlier termination of the lease;</p> <p>(E) Late charges and interest thereon for failing to pay the rentals timely;</p> <p>(F) Separately stated optional insurance charges, maintenance or warranty contracts.</p> <p><u>(G) Personal property taxes assessed against personal property where a bank or financial corporation is the lessor.</u></p>	<p>by the lease, including amounts paid for personal property taxes on the leased property, whether assessed directly against the lessee or against the lessor, but do not include amounts paid to the lessor for:</p> <p>(A) Collection costs, including attorney's fees, court costs, repossession charges, and storage fees; but tax does apply to any delinquent rental payments, including those collected by court action;</p> <p>(B) Insuring, repairing or refurbishing the leased property following a default;</p> <p>(C) Cost incurred in defending a court action or paying a tort judgment arising out of the lessee's operation of the leased property, or any premiums paid on insurance policies covering such court actions or tort judgments;</p> <p>(D) Cost incurred in disposing of the leased property at expiration or earlier termination of the lease;</p> <p>(E) Late charges and interest thereon for failing to pay the rentals timely;</p> <p>(F) Separately stated optional insurance charges, maintenance or warranty contracts.</p> <p><u>(G) Separately stated charges for personal property taxes, whether assessed directly against the lessee or against the lessor. The amount</u></p>

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		<u>of personal property tax excluded from rentals subject to tax shall not exceed the actual amount of personal property tax assessed by the assessor to the assessee.</u>
Exhibit 3	<p>Amended Regulation 1661(b)(2)(A)</p> <p>(b) Application of Tax.</p> <p>(2).</p> <p>(A) Fair Rental Value. "Fair rental value" means the rentals required by the lease, except where the Board determines the rental receipts are nominal. Fair rental value does not include any payment made by the lessee to reimburse the lessor for the lessor's use tax, whether or not the amount is separately stated, and regardless of how the charge is designated in the lease documentation and invoices. Lump-sum charges to the lessee will be assumed to include reimbursement for the lessor's use tax whether or not any statement to that effect is made to the lessee.</p> <p>Example:</p> <p>Assuming a 6 percent tax rate, if the invoice to the lessee states "rental \$100, tax reimbursement to the lessor \$6", "rental \$100, sales and use taxes \$6", or similar wording, the fair rental value is \$100. If the invoice to the lessee states "rental \$106" and makes no reference to reimbursement, the fair rental value is \$100 (\$106 divided by 1.06). Assuming a 6.5 percent tax rate, the fair rental value is \$99.53 (\$106 divided by 1.065).</p>	<p>Amended Regulation 1661(b)(2)(A)</p> <p>(b) Application of Tax.</p> <p>(2).</p> <p>(A) Fair Rental Value. "Fair rental value" means the rentals required by the lease, except where the Board determines the rental receipts are nominal. Fair rental value does not include any payment made by the lessee to reimburse the lessor for the lessor's use tax, whether or not the amount is separately stated, and regardless of how the charge is designated in the lease documentation and invoices. Lump-sum charges to the lessee will be assumed to include reimbursement for the lessor's use tax whether or not any statement to that effect is made to the lessee.</p> <p>Example:</p> <p>Assuming a 6 percent tax rate, if the invoice to the lessee states "rental \$100, tax reimbursement to the lessor \$6", "rental \$100, sales and use taxes \$6", or similar wording, the fair rental value is \$100. If the invoice to the lessee states "rental \$106" and makes no reference to reimbursement, the fair rental value is \$100 (\$106 divided by 1.06). Assuming a 6.5 percent tax rate, the fair rental value is \$99.53 (\$106 divided by 1.065).</p>

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	<p>Fair rental value includes any deficiency payment required from the lessee on disposition of mobile transportation equipment at the termination of an open-end lease and such payment is subject to tax. Any surplus rentals, however, which are returned to the lessee at the termination of an open-end lease may be deducted from the total fair rental value reported for the period in which the surplus rentals are returned. In the alternative, a refund may be claimed for any tax paid within the applicable statute of limitations period on such surplus rentals.</p> <p>Fair rental value includes any capitalized cost reduction payment, which is a one-time payment by the lessee at the start of the lease to reduce the lessor's investment and the lessee's rentals. The payment may either be reported for the period in which it became due from the lessee or it may be reported in equal increments over the lease term. On early termination of such a lease, any unreported portion of the capitalized cost reduction payment shall be reported for the period in which termination occurred.</p> <p>The term "fair rental value" includes any payments required by the lease, including amounts paid for personal property taxes on the leased property, whether assessed directly against the lessee or against the lessor, but do not include amounts paid to the lessor for:</p> <p style="padding-left: 40px;">(1) Collection costs, including attorney's fees, court costs, repossession charges, and storage fees; but tax does apply to any delinquent rental payments, including those collected by</p>	<p>Fair rental value includes any deficiency payment required from the lessee on disposition of mobile transportation equipment at the termination of an open-end lease and such payment is subject to tax. Any surplus rentals, however, which are returned to the lessee at the termination of an open-end lease may be deducted from the total fair rental value reported for the period in which the surplus rentals are returned. In the alternative, a refund may be claimed for any tax paid within the applicable statute of limitations period on such surplus rentals.</p> <p>Fair rental value includes any capitalized cost reduction payment, which is a one-time payment by the lessee at the start of the lease to reduce the lessor's investment and the lessee's rentals. The payment may either be reported for the period in which it became due from the lessee or it may be reported in equal increments over the lease term. On early termination of such a lease, any unreported portion of the capitalized cost reduction payment shall be reported for the period in which termination occurred.</p> <p>The term "fair rental value" includes any payments required by the lease, including amounts paid for personal property taxes on the leased property, whether assessed directly against the lessee or against the lessor, but do not include amounts paid to the lessor for:</p> <p style="padding-left: 40px;">(1) Collection costs, including attorney's fees, court costs, repossession charges, and storage fees; but tax does apply to any delinquent rental payments, including those collected by</p>

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	<p>court action;</p> <p>(2) Insuring, repairing or refurbishing the leased property following a default;</p> <p>(3) Costs incurred in defending a court action or paying a tort judgement arising out of the lessee's operation of the leased property, or any premiums paid on insurance policies covering such court actions or tort judgements;</p> <p>(4) Costs incurred in disposing of the leased property at expiration or earlier termination of the lease.</p> <p>(5) Late charges and interest thereon for failing to pay the rentals timely;</p> <p>(6) Separately stated optional insurance charges, maintenance or warranty contracts.</p> <p><u>(7) Personal property taxes assessed against personal property where a bank or financial corporation is the lessor.</u></p>	<p>court action;</p> <p>(2) Insuring, repairing or refurbishing the leased property following a default;</p> <p>(3) Costs incurred in defending a court action or paying a tort judgement arising out of the lessee's operation of the leased property, or any premiums paid on insurance policies covering such court actions or tort judgements;</p> <p>(4) Costs incurred in disposing of the leased property at expiration or earlier termination of the lease.</p> <p>(5) Late charges and interest thereon for failing to pay the rentals timely;</p> <p>(6) Separately stated optional insurance charges, maintenance or warranty contracts.</p> <p><u>(7) Separately stated charges for personal property taxes assessed against personal property where a bank or financial corporation is the lessor. The amount of personal property tax excluded from the definition "fair rental value" shall not exceed the actual amount of personal property tax assessed by the assessor to the assessee.</u></p>

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Exhibit 4	<p>Amended Regulation 1669(f)(1)(D)</p> <p>(f) Use of Rental Value as a Measure of Tax.</p> <p>(1) Where Applicable.</p> <p>(D) Mobile Transportation Equipment Leased While Being Held for Resale</p> <p>1. Fair Rental Value. "Fair rental value" means the rentals required by the lease, except where the Board determines the rental receipts are nominal. Fair rental value does not include any payment made by the lessee to reimburse the lessor for the lessor's use tax, whether or not the amount is separately stated, and regardless of how the charge is designated in the lease documentation and invoices. Lump-sum charges to the lessee will be assumed to include reimbursement for the lessor's use tax whether or not any statement to that effect is made to the lessee.</p> <p>Example:</p> <p>Assuming a 6 percent tax rate, if the invoice to the lessee states "rental \$100, tax reimbursement to the lessor \$6", "rental \$100, sales and use taxes \$6", or similar wording, the fair rental value is \$100. If the invoice to the lessee states "rental \$106" and makes no reference to reimbursement, the fair rental value is \$100 (\$106 divided by 1.06). Assuming a 6.5 percent tax rate, the fair rental value is \$99.53 (\$106</p>	<p>Amended Regulation 1669(f)(1)(D)</p> <p>(f) Use of Rental Value as a Measure of Tax.</p> <p>(1) Where Applicable.</p> <p>(D) Mobile Transportation Equipment Leased While Being Held for Resale</p> <p>1. Fair Rental Value. "Fair rental value" means the rentals required by the lease, except where the Board determines the rental receipts are nominal. Fair rental value does not include any payment made by the lessee to reimburse the lessor for the lessor's use tax, whether or not the amount is separately stated, and regardless of how the charge is designated in the lease documentation and invoices. Lump-sum charges to the lessee will be assumed to include reimbursement for the lessor's use tax whether or not any statement to that effect is made to the lessee.</p> <p>Example:</p> <p>Assuming a 6 percent tax rate, if the invoice to the lessee states "rental \$100, tax reimbursement to the lessor \$6", "rental \$100, sales and use taxes \$6", or similar wording, the fair rental value is \$100. If the invoice to the lessee states "rental \$106" and makes no reference to reimbursement, the fair rental value is \$100 (\$106 divided by 1.06). Assuming a 6.5 percent tax rate, the fair rental value is \$99.53 (\$106</p>

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	<p>divided by 1.065).</p> <p>Fair rental value includes any deficiency payment required from the lessee on disposition of mobile transportation equipment at the termination of an open-end lease and such payment is subject to tax. Any surplus rentals, however, which are returned to the lessee at the termination of an open-end lease may be deducted from the total fair rental value reported for the period in which the surplus rentals are returned. In the alternative, a refund may be claimed for any tax paid within the applicable statute of limitations period on such surplus rentals.</p> <p>Fair rental value includes any capitalized cost reduction payment, which is a one-time payment by the lessee at the start of the lease to reduce the lessor's investment and the lessee's rentals. The payment may either be reported for the period in which it became due from the lessee or it may be reported in equal increments over the lease term. On early termination of such a lease, any unreported portion of the capitalized cost reduction payment shall be reported for the period in which termination occurred.</p> <p>The term "fair rental value" includes any payments required by the lease, including amounts paid for personal property taxes on the leased property, whether assessed directly against the lessee or against the lessor, but <u>does</u> not include amounts paid to the lessor for:</p> <p style="padding-left: 40px;">a. Collection costs, including attorney's fees, court costs, repossession charges, and storage fees; but tax does apply to</p>	<p>divided by 1.065).</p> <p>Fair rental value includes any deficiency payment required from the lessee on disposition of mobile transportation equipment at the termination of an open-end lease and such payment is subject to tax. Any surplus rentals, however, which are returned to the lessee at the termination of an open-end lease may be deducted from the total fair rental value reported for the period in which the surplus rentals are returned. In the alternative, a refund may be claimed for any tax paid within the applicable statute of limitations period on such surplus rentals.</p> <p>Fair rental value includes any capitalized cost reduction payment, which is a one-time payment by the lessee at the start of the lease to reduce the lessor's investment and the lessee's rentals. The payment may either be reported for the period in which it became due from the lessee or it may be reported in equal increments over the lease term. On early termination of such a lease, any unreported portion of the capitalized cost reduction payment shall be reported for the period in which termination occurred.</p> <p>The term "fair rental value" includes any payments required by the lease, including amounts paid for personal property taxes on the leased property, whether assessed directly against the lessee or against the lessor, but <u>does</u> not include amounts paid to the lessor for:</p> <p style="padding-left: 40px;">a. Collection costs, including attorney's fees, court costs, repossession charges, and storage fees; but tax does apply to</p>

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	<p>any delinquent rental payments, including those collected in court action;</p> <p>b. Insuring, repairing or refurbishing the leased property following a default;</p> <p>c. Cost incurred in defending a court action or paying a tort judgement arising out of the lessee's operation of the leased property, or any premiums paid on insurance policies covering such court actions or tort judgements;</p> <p>d. Cost incurred in disposing of the leased property at expiration or earlier termination of the lease;</p> <p>e. Late charges and interest thereon for failing to pay the rentals timely;</p> <p>f. Separately stated optional insurance charges, maintenance or warranty contracts.</p> <p><u>g. Personal property taxes assessed against personal property where a bank or financial corporation is the lessor.</u></p>	<p>any delinquent rental payments, including those collected in court action;</p> <p>b. Insuring, repairing or refurbishing the leased property following a default;</p> <p>c. Cost incurred in defending a court action or paying a tort judgement arising out of the lessee's operation of the leased property, or any premiums paid on insurance policies covering such court actions or tort judgements;</p> <p>d. Cost incurred in disposing of the leased property at expiration or earlier termination of the lease;</p> <p>e. Late charges and interest thereon for failing to pay the rentals timely;</p> <p>f. Separately stated optional insurance charges, maintenance or warranty contracts.</p> <p><u>g. Separately stated charges for personal property taxes, whether assessed directly against the lessee or against the lessor. The amount of personal property tax excluded from rentals subject to tax shall not exceed the actual amount of personal property tax assessed by the assessor to the assessee.</u></p>

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BOARD OF EQUALIZATION
KEY AGENCY ISSUE

- ☐ Board Meeting
- ☒ Business Taxes Committee
- ☐ Customer Services Committee
- ☐ Legislative Committee
- ☐ Property Tax Committee
- ☐ Technology & Administration Committee
- ☐ Other

APPLICATION OF TAX ON PROPERTY TAX IN LEASE AGREEMENTS

I. Issue

Should Regulation 1660, *Leases of Tangible Personal Property – In General*, be amended to provide that charges for property tax in lease agreements are not subject to tax, whether assessed directly against the lessee or against the lessor?

II. Staff Recommendation

Staff recommends that charges for property tax in taxable lease agreements remain subject to tax. However, staff also recommends that Regulation 1660(c)(1) be amended to add paragraph (G) to provide that personal property taxes assessed against property where a bank or financial corporation is the lessor are not includable in rentals subject to tax. For consistency purposes, staff also recommends amending Regulations 1661 and 1669 to exclude, from the definition of “fair rental value,” personal property taxes assessed against property, where a bank or financial corporation is the lessor.

III. Other Alternative(s) Considered

A. Alternative 1

As proposed by Mr. Rex Halverson of KPMG, amend Regulation 1660 to provide that amounts paid for personal property taxes, whether assessed directly against the lessee or against the lessor, are not included in rentals subject to tax. If this alternative is adopted by the Board, in order to achieve consistency with the Regulation 1660 amendments, similar amendments should be made to Regulations 1661 and 1669. Staff’s draft language for Regulations 1661 and 1669 is shown in Exhibits 3 and 4.

B. Alternative 2

Sponsor legislation providing an express exclusion from the tax for personal property tax in lease agreements in order to provide a statutory basis for the exclusion.

C. Alternative 3

Make no changes to Regulation 1660.

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IV. Background

Regulation 1660, *Leases of Tangible Personal Property – In General*, interprets and explains the provisions of the Sales and Use Tax Law as they apply to leases of tangible personal property. Subdivision (c)(1) of the regulation provides a general discussion on the application of tax to leases. At the request of the Western Association of Equipment Lessors, this subdivision was amended on May 9, 1985, to add the definition of “rentals subject to tax” and to provide for the exclusion of certain other charges by the lessor that are not part of rentals. This amendment specifically states that amounts paid for personal property taxes on the leased property, whether assessed directly against the lessee or against the lessor, are includable in rentals subject to tax. Also amended on May 9, 1985, were Regulation 1661(b)(2)(A)¹ and Regulation 1669(f)(1)(D)² to add language similar to Regulation 1660(c)(1).

In October 1980, the Los Angeles Superior Court upheld the Board’s interpretation that property taxes paid by the lessee for the lessor are included in the definition of “sales price” and “gross receipts.” In this case, the lessor collected from lessees personal property taxes assessed by the various counties.³

In 1985, Assembly Bill 1392 was introduced by Assembly Member Brown to exclude amounts of any tax imposed by any city, county, city and county, or rapid transit district within this state, with respect to the value of tangible personal property, whether the tax is imposed upon the retailer or the consumer. This legislation intended to eliminate the local property tax from the base of the sales and use tax, thereby reducing sales and use tax on leased equipment. This bill did not pass out of the Assembly Committee on Revenue and Taxation. A similar bill, SB 2043, was approved by the Legislature during the 1979-80 legislative session, but was vetoed by the Governor. The Governor’s veto message read, in part:

“This bill provides tax relief for a very few taxpayers with no apparent justification. It could also establish a precedent for excluding other taxes from the sales tax base, which would be very costly to the state.”

During the 1981-82 legislative session, Assembly Bill 2071 and Senate Bill 258 were introduced by Assembly Member Mountjoy and Senator Garcia, respectively, to exclude personal property taxes that are assessed on leased equipment from taxable rental receipts. However, these bills failed to pass out of committee.

In 1999, the subject “proposed regulatory changes to clarify application of tax on property tax in lease agreements” was scheduled for consideration by the Board of Equalization Business Taxes Committee. In a letter dated July 30, 1999, Mr. Rex W. Halverson of KPMG LLP (hereafter “industry”), submitted proposed amendments to Regulation 1660(c)(1) for consideration by staff. The following discussion provides staff’s explanation of how the sales and use tax law and regulations currently apply to leases in general and, when applicable, incorporates the comments provided in industry’s correspondence.

Discussion – Sales and Use Tax Law

¹ formerly subdivision (e)(2)(A)

² formerly subdivision (e)(1)(D)

³ Machinery Leasing Company v. State Board of Equalization, Case Number C146797

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Subdivision (g) of Revenue and Taxation Code section 6006 and subdivision (e) of Revenue and Taxation Code section 6010 explains when a lease of tangible personal property is a “sale” and “purchase”:

Any lease of tangible personal property in any manner or by any means whatsoever, for a consideration, except a lease of: ...

- (1) Motion pictures or animated motion pictures, including television, films, and tapes.
- (2) Linen supplies and similar articles when an essential part of the lease agreement is the furnishing of the recurring service of laundering or cleaning the articles.
- (3) Household furnishings with a lease of the living quarters in which they are to be used.
- (4) Mobile transportation equipment for use in transportation of persons or property as defined in Section 6023.
- (5) Tangible personal property leased in substantially the same form as acquired by the lessor or leased in substantially the same form as acquired by a transferor, as to which the lessor or transferor has paid sales tax reimbursement or has paid use tax measured by the purchase price of the property. For purposes of this paragraph, "transferor" shall mean the following:
 - (A) A person from whom the lessor acquired the property in a transaction described in subdivision (b) of Section 6006.5.
 - (B) A decedent from whom the lessor acquired the property by will or the laws of succession.
- (6) A mobilehome, as defined in Sections 18008 and 18211 of the Health and Safety Code, other than a mobilehome originally sold new prior to July 1, 1980, and not subject to local property taxation.
- (7) Paragraphs (1) and (5) and Section 6094.1 shall not apply to rentals or leases of video cassettes, video tapes, and video discs for private use under which the lessee or renter does not obtain or acquire the right to license, broadcast, exhibit, or reproduce the video cassette, video tape, or video disc.

A lease not falling within any of the specified exceptions provided in section 6006(g) and section 6010(e) is a “sale” and a “purchase.” In the case of a lease that is a “sale” and “purchase,” the sales or use tax is applicable to the gross receipts or sales price.

“Gross receipts” is defined by section 6012 of the Revenue and Taxation Code as meaning the total amount of the sale or lease or rental price, without deduction for the cost of the property sold, materials

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used, labor or service cost, interest paid, losses, or any other expense. “Sales price” is defined by section 6011 of the Revenue and Taxation Code as meaning the total amount for which tangible personal property is sold or leased without deduction for the cost of the property sold, the cost of materials used, labor or service, cost, interest charged, losses, or any other expense.

Discussion – Proposed Regulatory Amendments

Industry’s proposed amendments to Regulation 1660 would provide that use tax not be imposed on personal property tax in true or operating lease agreements.

The fourth paragraph of subdivision (c)(1) of Regulation 1660 now provides:

“The ‘rentals’ subject to the tax include any payments required by the lease, including amounts paid for personal property taxes on leased property, whether assessed directly against the lessee or against the lessor, but do not include....”

Industry’s proposed subdivision would change this rule by providing:

“The ‘rentals’ subject to the tax include any payments required by the lease, but do not include amounts paid to the lessor for:

“....

“(G) Personal property taxes, whether assessed directly against the lessee or against the lessor.”

Industry states that, historically, the argument has been that the definition of “sales price” that is contained in Revenue and Taxation Code section 6011 is sufficiently broad to include personal property tax imposed by local assessors on equipment. Industry also states that subdivision (b) of section 6011 contains specific examples of what is included in the definition of sales price for property “leased or rented,” while subdivision (c) contains examples of what is not included in “sales price.” Industry further notes that there is no paragraph in subdivision (c) that addresses “leased or rented” property; therefore, industry believes that subdivision (b) should be controlling rather than subdivision (c).

Staff believes that *all* parts of section 6011 are relevant to the determination of the measure of taxable sales price, and that none of its provisions can be ignored. As provided in Regulation 1660, the tax on rentals payable from leases is generally a use tax. Revenue and Taxation Code section 6201 provides that the measure of use tax is always the sales price of the property and “sales price” is specifically defined in section 6011. Subdivision (a) of section 6011 states the basic rule that “sales price” includes the total amount for which the property is sold, leased or rented, as the case may be, without any deduction for items listed in that subdivision. Subdivision (b) includes an additional list of items not deductible from the measure of sales price. Subdivision (c) lists specific deductions from the otherwise applicable measure of the tax. Staff believes that if subdivision (c) did not apply to leases as industry contends, this could only *increase* the measure of tax on leases, since none of the deductions provided therein would be granted when the transaction is a lease. Staff does not agree with the contention that these deductions should be denied for lease transactions. Rather, the deductions provided for in subdivision (c) are available to any taxpayer who owes use tax.

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Staff believes that since neither subdivision (b) nor (c) covers the inclusion or exclusion of property taxes from the measure of tax, neither of them is controlling. Rather, the controlling provision is subdivision (a), which provides that “sales price” means the total amount for which tangible personal property is leased or rented, without any deduction on account of the cost of materials used, labor or service cost, interest charged, losses, or *any other expenses*.

Property tax is an *expense* directly associated with the lease or rental of the tangible personal property. There is no requirement that lessors pass on their property tax expense to their lessees. In some cases, the parties may specifically agree that the lessee will pay “property taxes.” Ordinarily, in such cases, the lessor pays the taxes to the tax collector and the lessee reimburses the lessor’s expense by a like amount. Accordingly, staff believes amounts paid for personal property taxes should remain includable in the taxable “sales price” of the tangible personal property leased or rented.

Additionally, with respect to short-term leases, the property tax expense is customarily included as part of the rental price to the lessee and is not itemized or identified separately. The property tax expense is amortized over the lease term.

If the Board adopts industry’s proposed amendment to Regulation 1660, Regulation 1661, *Leases of Mobile Transportation Equipment*, and Regulation 1669, *Demonstration, Display and Use of Property Held for Resale – General*, should also be amended in order to provide consistency among the three regulations (Exhibits 3 and 4).

Discussion – Statutory Construction

Industry states that the primary rule of statutory construction is that the intention of the Legislature must be ascertained. (*Marina Village v. California Coastal Zone Conservation Commission* (1976) 61 Cal.App.3d 388.) However, with respect to Revenue and Taxation Code section 6011, industry has not discovered any evidence of legislative intent in the various legislative committee reports which it believes would clarify whether or not the Legislature intended that the measure of the use tax includes or was intended to include the personal property tax imposed on leased equipment. Accordingly, industry believes that the applicable rule of statutory construction here is that a specific provision relating to a particular subject governs over a more general provision that broadly covers the same subject. (See *Wilson v. Board of Retirement* (1957) 156 Cal.App.2d 195, 211; Sutherland, *Statutes and Statutory Construction*, §51.05 (5th Ed.).)

Staff notes that subdivisions (c) of sections 6011 and 6012 of the Revenue and Taxation Code exclude from the taxable measure the amount of any city and county or rapid transit district taxes, as well as state motor vehicle fees and taxes. Neither subdivision (c) nor any other provision of sections 6011 or 6012 excludes the amounts at issue here from the measure of tax. The courts have held that a legislative enumeration of certain exceptions by necessary implication excludes all other exceptions. (*People ex rel. Cranston v. Bonelli*, (1971) 15 Cal. App 3d 129, 135.) Here, the Legislature has excluded certain fees and taxes from the measure of tax when it intended that such be the case, but it did not do so in the case of the cost of property tax. Thus, staff believes it cannot be implied that the Legislature intended to exclude from the measure of tax the lessor’s expense for property tax that is passed on to consumers. This means that, just as with any other overhead expense of the retailer passed on to the consumer, the

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increase in the cost of a lease payment due to the inclusion of the cost of property tax paid by the lessor is part of the lessor's taxable "gross receipts" or taxable "sales price."

Discussion – Banks and Financial Corporations

Industry also believes that the exclusion of personal property tax from taxable rental receipts, as provided in Business Tax Law Guide Annotations 330.3530 (Property Taxes Where Bank is Lessor) and 330.3533 (Property Taxes Where Financial Corporation is Lessor) represents a discriminatory application of the law. Industry notes that the Taxpayers' Bill of Rights guarantees the taxpayer that the laws will be applied in a fair and equitable manner.

Tangible personal property owned by banks and financial corporations (commonly referred to as financial institutions or financials) is exempt from property taxation by the in-lieu tax provisions of Article XIII, section 27 of the California Constitution, and sections 23154 and 23182 of the Revenue and Taxation Code. These businesses pay an in-lieu "franchise tax on net income" instead of property tax. The Franchise Tax Board maintains a listing of banks and financials qualified under these sections. If a lessor bank or financial is shown on the listing of banks and financials, the leased property is assessable to the lessee (unless the lessee is also exempt from property taxation) pursuant to Revenue and Taxation Code section 235. Section 235 states:

"For purposes of this division, the lessee of tangible personal property owned by a bank or financial corporation shall be conclusively presumed the owner of that property."

The basis for the opinions expressed in Annotations 330.3530 and 330.3533 is that the lessee is regarded as the owner of the leased property under section 235. The property tax is never a business expense of the lessor/bank or financial institution, and thus is never passed by the lessor on to the lessee. Rather, because of the operation of the in-lieu exemption together with section 235, the lessee has personal liability for the personal property tax, even if collected from the lessee and remitted by the bank or financial corporation. Accordingly, the amount of the personal property tax is not part of the rentals payable.

Staff believes the opinions expressed in Annotations 330.3530 and 330.3533 should be incorporated into Regulations 1660, 1661 and 1669 to make it clear that property tax is not included in rentals subject to tax when the lessor is a bank or a financial corporation. Industry agrees with staff that this clarification is necessary.

Discussion – Personal Property Tax Imposed Against the Lessee Directly

Industry believes that if the personal property tax is imposed against the lessee directly, this tax imposition cannot reasonably be regarded as a taxable event for use tax purposes when the lessor will have no knowledge of the amount of the personal property tax that actually constitutes part of the "sales price." Industry noted that the use tax must be collected and remitted to the Board of Equalization by the lessor.

The liability for the property tax, in terms of who shall be assessed, is covered under Revenue and Taxation Code section 405. Section 405 provides that the assessor shall assess all taxable property on

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the lien date to the “persons owning, claiming, possessing, or controlling it.” The assessor may assess either the lessor or the lessee of the property. However, this does not answer the question of who is primarily liable for the tax.

The general rule is that, in the absence of a contrary agreement, the mere relationship of landlord and tenant ordinarily gives rise to no duty requiring the lessee to pay taxes and assessments levied against the leased property. (*Hammond Lumber Co. v. Los Angeles* (1936) 12 Cal.App.2d 277.) Accordingly, the ultimate liability for payment of taxes is on the owner and not the lessee. This is so even if a statute allows assessment to the lessee. In *Caldwell v. Moore* (1849) 11 Pac. 581, the court pointed out that a statute permitting assessment in the name of the tenant was merely for the purpose of facilitating the recovery by the state of its taxes and would not alter the ultimate liability of the owner for the payment of them.

In view of the foregoing, the ultimate liability for the payment of property taxes is that of the lessor, notwithstanding the fact that the statute authorizes assessment against the lessee. It is true that the lessor can, by contract, require the lessee to pay the taxes; however, regardless of such stipulation, the lessor ultimately remains liable for payment of the property tax. When the lessor so contracts with the lessee, the lessee is assuming a liability of the lessor and the assumption is part of the payment for the use of the leased property and, therefore, is part of the sales price or gross receipts.

V. Staff Recommendation

A. Description of the Staff Recommendation

Staff recommends that charges for property tax in taxable lease agreements remain subject to tax. However, staff also recommends that Regulation 1660(c)(1) be amended to add paragraph (G) to provide that personal property taxes assessed against property, where a bank or financial corporation is the lessor, are not includable in rentals subject to tax. For consistency purposes, staff also recommends amending Regulations 1661 and 1669 to exclude, from the definition of “fair rental value,” personal property taxes assessed against property where a bank or financial corporation is the lessor.

B. Pros of the Staff Recommendation

- Staff’s recommendation maintains consistency with the application of tax to any other business expense of a lessor/retailer that is passed on to a lessee/customer.
- Staff’s recommendation maintains consistency with the October 1980 Los Angeles Superior Court decision in the case of *Machinery Leasing v. State Board of Equalization*.
- Staff’s recommendation does not require legislative action.

C. Cons of the Staff Recommendation

- Consumers would continue to question the inclusion of the property tax in taxable rental receipts.

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A. Statutory or Regulatory Change

No statutory change, but requires amendments to Regulations 1660, 1661 and 1669 to incorporate Sales and Use Tax Annotations 330.3530 and 330.3533.

B. Administrative Impact

None.

C. Fiscal Impact**1. Cost Impact**

None.

2. Revenue Impact

None.

G. Taxpayer/Customer Impact

None. The proposed amendment to Regulations 1660, 1661 and 1669 incorporates published Sales and Use Tax Annotations. These annotations, which are summaries of conclusions reached in legal opinions, have been available as guidance to staff and to the public for many years.

H. Critical Time Frames

Because the recommended amendments are based on the Board's interpretation of existing statutes, which are published as annotations in the Business Taxes Law Guide, there is no operative date. The amendments are retroactive.

VI. Alternative 1**A. Description of the Alternative**

As proposed by industry, amend Regulation 1660 to provide that amounts paid for personal property taxes, whether assessed directly against the lessee or against the lessor, are not included in rentals subject to tax.

If this alternative is adopted by the Board, in order to achieve consistency with the Regulation 1660 amendments, similar amendments should be made to Regulations 1661 and 1669. Staff's draft language for Regulations 1661 and 1669 is shown in Exhibits 3 and 4.

B. Pros of the Alternative

- Some lessees would experience a tax savings in the amount of tax no longer paid on property tax charged when leasing tangible personal property.

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- This alternative would reduce confusion for consumers who believe they are being charged a tax on a tax.

C. Cons of the Alternative

- No statutory basis
- Requires an amendment to three regulations
- Lessors would be faced with new compliance costs of reprogramming billing software to separately state the amount of property tax and to treat it as a nontaxable charge.
- The exclusion would result in a revenue loss to the state.
- This alternative would contradict the October 1980 Los Angeles Superior Court decision in the case of *Machinery Leasing v. State Board of Equalization*, and may constitute a “gift of public funds” under Article XVI of the Constitution.
- Incurs costs to notify taxpayers and to process workload created (see Administrative Impact E)

D. Statutory or Regulatory Change

No statutory change would be required, but an amendment to three regulations would be required.

E. Administrative Impact

Because the amendments proposed under this alternative would be applied retroactively, this alternative is expected to result in an increased workload for the Refund Section due to potential claims for refund. A workload increase would also be seen by field auditors in verifying amounts of personal property taxes claimed as nontaxable.

Implementation of the recommended amendments is contingent upon approval by the Office of Administrative Law (OAL). In the interim, staff action on in-process audits, disputed audit decisions, and audit selection would be put on hold.

Once OAL approval had been received, implementation would consist of notification to industry and to staff. Industry would be notified by a special notice. Notification would also be given through a *Taxpayer Information Bulletin* article. Staff would be notified initially by memorandum.

F. Fiscal Impact**1. Cost Impact**

The cost to notify affected taxpayers and the increased workload would be absorbable.

2. Revenue Impact

It is estimated that an annual revenue loss of \$3 million would occur (Exhibit 1).

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G. Taxpayer/Customer Impact

This alternative might require lessors to reprogram billing software to separately state the amount of property tax and to treat it as a nontaxable charge. Lessees would experience tax relief.

H. Critical Time Frames

Because the recommended amendments are based on a reinterpretation of existing statutes, there would be no operative date. The amendments would be retroactive.

VII. Alternative 2

A. Description of the Alternative

Sponsor legislation providing an express exclusion from the tax for personal property tax in lease agreements, in order to provide a statutory basis for the exclusion.

B. Pros of the Alternative

- This alternative would provide the required statutory basis to exclude the property tax from rentals subject to tax.
- Since there would be an operative date, the Refund Section would not see an increase in workload.

C. Cons of the Alternative

- If chaptered, this alternative would result in a revenue loss to the State.
- Would require legislative action.
- Since there would be an operative date, taxpayers would not be able to file a claim for refund for prior periods.
- Would result in increased, but absorbable costs to notify taxpayers and to process workload created (see Administrative Impact E).

D. Statutory or Regulatory Change

Both statutory and regulatory changes would be required.

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E. Administrative Impact

A statutory change would have an operative date and, therefore, result in implementation on a prospective basis. In time, a workload increase would be seen by field auditors due to verifying amounts of personal property taxes claimed as non-taxable.

F. Fiscal Impact**1. Cost Impact**

The cost to notify affected taxpayers and the increased workload would be absorbable.

1. Cost Impact

It is estimated that an annual revenue loss of \$3 million would occur (Exhibit 1).

G. Taxpayer/Customer Impact

This alternative might require lessors to reprogram billing software to separately state the amount of property tax and to treat it as a nontaxable charge. Lessees would experience tax relief.

H. Critical Time Frames

None.

VIII. Alternative 3**A. Description of the Alternative**

Make no changes to Regulation 1660.

B. Pros of the Alternative

- This alternative maintains consistency with the application of tax to any other business expense of a lessor/retailer that is passed on to a lessee/customer.
- This alternative would maintain consistency with the 1980 Los Angeles Superior Court decision in the case of *Machinery Leasing Co. v. State Board of Equalization*.
- This alternative would not require a regulatory amendment or legislation.

C. Cons of the Alternative

- Consumers would continue to question the inclusion of the property tax in taxable rental receipts.
- Existing annotations that explain that personal property tax is not included in rental receipts subject to tax if the lessor is a bank or financial corporation would not be incorporated into Regulation 1660.

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D. Statutory or Regulatory Change

None.

E. Administrative Impact

None.

F. Fiscal Impact

1. Cost Impact

None.

2. Revenue Impact

None.

G. Taxpayer/Customer Impact

None.

H. Critical Time Frames

None.

Prepared by: Sales and Use Tax Department, Program Planning Division

Current as of: November 5, 1999



REGULATION 1660 – APPLICATION OF TAX ON PROPERTY TAX IN LEASE AGREEMENTS

Staff Recommendation

Staff recommends that charges for property tax in taxable lease agreements remain subject to tax. However, staff also recommends that Regulation 1660(c)(1) be amended to add paragraph (G) to provide that personal property taxes assessed against property where a bank or financial corporation is the lessor are not includable in rentals subject to tax. For consistency purposes, staff also recommends amending Regulations 1661 and 1669 to exclude personal property taxes assessed against property, where a bank or financial corporation is the lessor, from the definition of “fair rental value.”

Alternative 1

As proposed by KPMG, amend Regulation 1660 to provide that amounts paid for personal property taxes, whether assessed directly against the lessee or against the lessor, are not included in rentals subject to tax. If this alternative is adopted by the Board, in order to achieve consistency with the Regulation 1660 amendments, similar amendments should be made to Regulations 1661 and 1669.

Alternative 2

Sponsor legislation providing an express exclusion from the tax for personal property tax in lease agreements in order to provide a statutory basis for the exclusion.

Alternative 3

Make no changes to Regulation 1660.

Background, Methodology, and Assumptions

Staff Recommendation:

The staff recommendation would not change the application of sales and use tax to property taxes included in lease receipts. The additions of paragraph (G) to Regulation 1660(c)(1), paragraph (7) to Regulation 1661 and paragraph (g) to Regulation 1669 are simply to clarify that property taxes assessed against property where a bank or financial corporation is the lessor are not includable in rentals subject to tax.

The staff recommendation has no revenue impact.

Alternative 1:

Alternative 1 would amend Regulation 1660 to provide that amounts paid for personal property taxes, whether assessed directly against the lessee or the lessor, are not included in rentals subject to tax. This proposal would result in a loss of state and local sales and use taxes.

According to the U.S. Department of Commerce, 1997 revenues by California businesses engaged in the rental and leasing of commercial and industrial machinery and equipment amounted to \$6.9 billion. Of this amount, \$2.2 billion was for property which is not subject to personal property taxes. The remainder, \$4.7 billion would be subject to personal property taxes.

Some of this property would not be affected by this proposal because the lessor of the property is a bank or financial institution or because the sales and use tax was paid on the cost of the property rather than on the lease receipts. Board audit experience indicates that perhaps as much as 25% of this property would not be affected by this proposal. The remaining 75% or \$3.5 billion would represent lease receipts that include property tax charges.

If we assume that the lease receipts represent the market value of this property for property tax purposes, and if we apply the 1997-98 average property tax rate of 1.067% to the \$3.5 billion, the estimated property tax charges included in taxable lease receipts amount to \$37.5 million. (\$3.5 billion x 1.067% = \$37.5 million.)

Exempting this amount from the state and local sales and use tax would result in a revenue loss of \$3.0 million.

Alternative 2:

Alternative 2 would be to sponsor legislation to expressly exclude property taxes included in lease agreements, from the state and local sales tax. The revenue impact of such legislation would be the same as the revenue impact of Alternative 1 – a \$3.0 million loss in state and local sales and use tax.

Alternative 3:

Alternative 3 has no revenue impact.

Revenue Estimate

Staff Recommendation:

The staff recommendation has no revenue impact.

Alternative 1:

The revenue impact from exempting the \$37.5 million in property tax charges included in taxable lease receipts from the sales and use tax would be as follows:

	<u>Revenue Effect</u>
State loss (5%)	\$ 1.9 million
Local loss (2.25%)	0.8 million
Transit loss (0.67%)	0.3 million
Total	\$ 3.0 million

The effect of the proposed amendments to Regulations 1660, 1661 and 1669 would be retroactive and would create a potential for refunds for 3 years.

Alternative 2:

The revenue impact of Alternative 2 would be the same as the revenue impact of Alternative 1. However, the provisions of the proposed legislation would most likely not be retroactive and therefore, no refunds would be allowed.

Alternative 3:

Alternative 3 has no revenue impact.

Preparation

This revenue estimate was prepared by David E. Hayes, Statistics Section, Agency Planning and Research Division. This revenue estimate was reviewed by Ms. Laurie Frost, Chief, Agency Planning and Research Division and Ms. Freda Orendt-Evans, Program Planning Manager, Sales and Use Tax Department. For additional information, please contact Mr. Hayes at (916) 445-0840.

Current as of November 4, 1999

Regulation 1660, Leases of Tangible Personal Property – In General
Comparison of Proposed Staff and Industry Language
Current as of 11/05/1999

Action Item	Current Regulatory Language	Staff's Proposed Regulatory Language	Industry's Proposed Regulatory Language	Summary Comments
	<p>Regulation 1660, Leases of Tangible Personal Property – In General</p> <p>(c) General Application of Tax.</p> <p>(1) Nature of Tax. In the case of a lease that is a “sale” and “purchase” the tax is measured by the rentals payable. Generally, the applicable tax is a use tax upon the use in this state of the property by the lessee. The lessor must collect the tax from the lessee at the time rentals are paid by the lessee and give him or her a receipt of the kind called for in regulation 1686 (18 CCR 1686). The lessee is not relieved from liability for the tax until he or she is given such a receipt or the tax is paid to the state.</p> <p>When the lessee is not</p>	<p>Regulation 1660, Leases of Tangible Personal Property – In General</p> <p>(c) General Application of Tax.</p> <p>(1) Nature of Tax. In the case of a lease that is a “sale” and “purchase” the tax is measured by the rentals payable. Generally, the applicable tax is a use tax upon the use in this state of the property by the lessee. The lessor must collect the tax from the lessee at the time rentals are paid by the lessee and give him or her a receipt of the kind called for in regulation 1686 (18 CCR 1686). The lessee is not relieved from liability for the tax until he or she is given such a receipt or the tax is paid to the state.</p> <p>When the lessee is not</p>	<p>Regulation 1660, Leases of Tangible Personal Property – In General</p> <p>(c) General Application of Tax.</p> <p>(1) Nature of Tax. In the case of a lease that is a “sale” and “purchase” the tax is measured by the rentals payable. Generally, the applicable tax is a use tax upon the use in this state of the property by the lessee. The lessor must collect the tax from the lessee at the time rentals are paid by the lessee and give him or her a receipt of the kind called for in regulation 1686 (18 CCR 1686). The lessee is not relieved from liability for the tax until he or she is given such a receipt or the tax is paid to the state.</p> <p>When the lessee is not</p>	<p>No change to existing regulation.</p> <p>No change to existing regulation.</p> <p>No change to existing regulation.</p>

Regulation 1660, Leases of Tangible Personal Property – In General
Comparison of Proposed Staff and Industry Language
Current as of 11/05/1999

Action Item	Current Regulatory Language	Staff's Proposed Regulatory Language	Industry's Proposed Regulatory Language	Summary Comments
	<p>subject to use tax (for example, insurance companies), the sales tax applies. The sales tax is upon the lessor and is measured by the rentals payable.</p> <p>Neither the sales tax nor the use tax applies to leases to the United States and its instrumentalities unless federal law permits taxing the instrumentality. For a more complete explanation regarding sales to the United States and its instrumentalities see Regulation 1614 (18 CCR 1614).</p> <p>The “rentals” subject to the tax include any payments</p>	<p>subject to use tax (for example, insurance companies), the sales tax applies. The sales tax is upon the lessor and is measured by the rentals payable.</p> <p>Neither the sales tax nor the use tax applies to leases to the United States and its instrumentalities unless federal law permits taxing the instrumentality. For a more complete explanation regarding sales to the United States and its instrumentalities see Regulation 1614 (18 CCR 1614).</p> <p>The “rentals” subject to the tax include any payments</p>	<p>subject to use tax (for example, insurance companies), the sales tax applies. The sales tax is upon the lessor and is measured by the rentals payable.</p> <p>Neither the sales tax nor the use tax applies to leases to the United States and its instrumentalities unless federal law permits taxing the instrumentality. For a more complete explanation regarding sales to the United States and its instrumentalities see Regulation 1614 (18 CCR 1614).</p> <p>The “rentals” subject to the tax include any payments</p>	<p>No change to existing regulation.</p> <p>Industry proposes deleting language stating that amounts paid for personal</p>

Regulation 1660, Leases of Tangible Personal Property – In General
Comparison of Proposed Staff and Industry Language
Current as of 11/05/1999

Action Item	Current Regulatory Language	Staff's Proposed Regulatory Language	Industry's Proposed Regulatory Language	Summary Comments
ACTION 1, “Amounts Not Included in Taxable Rental Receipts”	<p>required by the lease, including amounts paid for personal property taxes on the leased property, whether assessed directly against the lessee or against the lessor, but do not include amounts paid to the lessor for:</p> <p>(A) Collection costs, including attorney's fees, court costs, repossession charges, and storage fees; but tax does apply to any delinquent rental payments, including those collected by court action;</p> <p>(B) Insuring, repairing or refurbishing the leased property following a</p>	<p>required by the lease, including amounts paid for personal property taxes on the leased property, whether assessed directly against the lessee or against the lessor, but do not include amounts paid to the lessor for:</p> <p>(A) Collection costs, including attorney's fees, court costs, repossession charges, and storage fees; but tax does apply to any delinquent rental payments, including those collected by court action;</p> <p>(B) Insuring, repairing or refurbishing the leased property following a</p>	<p>required by the lease, including amounts paid for personal property taxes on the leased property, whether assessed directly against the lessee or against the lessor, but do not include amounts paid to the lessor for:</p> <p>(A) Collection costs, including attorney's fees, court costs, repossession charges, and storage fees; but tax does apply to any delinquent rental payments, including those collected by court action;</p> <p>(B) Insuring, repairing or refurbishing the leased property following a</p>	<p>property taxes on the leased property, whether assessed directly against the lessee or the lessor, are includable in rentals subject to tax.</p> <p>Industry believes that since personal property tax is not provided as an example under section 6011(b), personal property tax should not be included in the definition of “sales price.”</p> <p>Staff believes personal property taxes are included in the definition of gross receipts and in the definition of sales price as an expense directly associated with the lease or rental of tangible personal property.</p>

Regulation 1660, Leases of Tangible Personal Property – In General
Comparison of Proposed Staff and Industry Language
Current as of 11/05/1999

Action Item	Current Regulatory Language	Staff's Proposed Regulatory Language	Industry's Proposed Regulatory Language	Summary Comments
	<p>default;</p> <p>(C) Cost incurred in defending a court action or paying a tort judgment arising out of the lessee's operation of the leased property, or any premiums paid on insurance policies covering such court actions or tort judgments;</p> <p>(D) Cost incurred in disposing of the leased property at expiration or earlier termination of the lease;</p> <p>(E) Late charges and interest thereon for failing to pay the rentals timely;</p> <p>(F) Separately stated optional insurance charges, maintenance or warranty contracts.</p>	<p>default;</p> <p>(C) Cost incurred in defending a court action or paying a tort judgment arising out of the lessee's operation of the leased property, or any premiums paid on insurance policies covering such court actions or tort judgments;</p> <p>(D) Cost incurred in disposing of the leased property at expiration or earlier termination of the lease;</p> <p>(E) Late charges and interest thereon for failing to pay the rentals timely;</p> <p>(F) Separately stated optional insurance charges, maintenance or warranty contracts.</p> <p><u>(G) Personal property taxes assessed against personal property where a bank or financial</u></p>	<p>default;</p> <p>(C) Cost incurred in defending a court action or paying a tort judgment arising out of the lessee's operation of the leased property, or any premiums paid on insurance policies covering such court actions or tort judgments;</p> <p>(D) Cost incurred in disposing of the leased property at expiration or earlier termination of the lease;</p> <p>(E) Late charges and interest thereon for failing to pay the rentals timely;</p> <p>(F) Separately stated optional insurance charges, maintenance or warranty contracts.</p> <p><u>(G) Separately stated charges for personal property taxes, whether assessed directly against</u></p>	<p>Industry added paragraph (G) to specifically exclude personal property taxes, whether assessed directly against the lessee or against</p>

Regulation 1660, Leases of Tangible Personal Property – In General
Comparison of Proposed Staff and Industry Language
Current as of 11/05/1999

Action Item	Current Regulatory Language	Staff's Proposed Regulatory Language	Industry's Proposed Regulatory Language	Summary Comments
ACTION 1, “Amounts Not Included in Rentals Subject to Tax”		<u>corporation is the lessor.</u>	<u>the lessee or against the lessor. The amount of personal property tax excluded from rentals subject to tax shall not exceed the actual amount of personal property tax assessed by the assessor to the assessee.</u>	the lessor, from rentals subject to tax. Staff added paragraph (G) to incorporate the opinions provided in Sales and Use Tax Annotations 330.3530 and 330.3533 to make it clear that personal property tax is not included in rentals subject to tax where a bank or financial corporation is a lessor. Staff also recommends that Regulations 1661 and 1669 be amended to incorporate Annotations 330.3530 and 330.3533 as shown in Exhibits 3 and 4.

Regulation 1661, Leases of Mobile Transportation Equipment
Comparison of Proposed Staff Language
Current as of 11/05/1999

Action Item	Current Regulatory Language	Staff's Proposed Regulatory Language	Language Providing Consistency with Industry's Proposal for Regulation 1660	Summary Comments
	<p>Regulation 1661, Leases of Mobile Transportation Equipment</p> <p>(b) Application of Tax.</p> <p>(2).</p> <p>(A) Fair Rental Value. "Fair rental value" means the rentals required by the lease, except where the Board determines the rental receipts are nominal. Fair rental value does not include any payment made by the lessee to reimburse the lessor for the lessor's use tax, whether or not the amount is separately stated, and regardless of how the charge is designated in the lease documentation and invoices. Lump-sum charges to the lessee will be assumed to include reimbursement for the</p>	<p>Regulation 1661, Leases of Mobile Transportation Equipment</p> <p>(b) Application of Tax.</p> <p>(2).</p> <p>(A) Fair Rental Value. "Fair rental value" means the rentals required by the lease, except where the Board determines the rental receipts are nominal. Fair rental value does not include any payment made by the lessee to reimburse the lessor for the lessor's use tax, whether or not the amount is separately stated, and regardless of how the charge is designated in the lease documentation and invoices. Lump-sum charges to the lessee will be assumed to include reimbursement for the</p>	<p>Regulation 1661, Leases of Mobile Transportation Equipment</p> <p>(b) Application of Tax.</p> <p>(2).</p> <p>(A) Fair Rental Value. "Fair rental value" means the rentals required by the lease, except where the Board determines the rental receipts are nominal. Fair rental value does not include any payment made by the lessee to reimburse the lessor for the lessor's use tax, whether or not the amount is separately stated, and regardless of how the charge is designated in the lease documentation and invoices. Lump-sum charges to the lessee will be assumed to include reimbursement for the</p>	

Regulation 1661, Leases of Mobile Transportation Equipment
Comparison of Proposed Staff Language
Current as of 11/05/1999

Action Item	Current Regulatory Language	Staff's Proposed Regulatory Language	Language Providing Consistency with Industry's Proposal for Regulation 1660	Summary Comments
	<p>lessor's use tax whether or not any statement to that effect is made to the lessee.</p> <p>Example:</p> <p>Assuming a 6 percent tax rate, if the invoice to the lessee states "rental \$100, tax reimbursement to the lessor \$6", "rental \$100, sales and use taxes \$6", or similar wording, the fair rental value is \$100. If the invoice to the lessee states "rental \$106" and makes no reference to reimbursement, the fair rental value is \$100 (\$106 divided by 1.06). Assuming a 6.5 percent tax rate, the fair rental value is \$99.53 (\$106 divided by 1.065).</p> <p>Fair rental value includes any deficiency payment</p>	<p>lessor's use tax whether or not any statement to that effect is made to the lessee.</p> <p>Example:</p> <p>Assuming a 6 percent tax rate, if the invoice to the lessee states "rental \$100, tax reimbursement to the lessor \$6", "rental \$100, sales and use taxes \$6", or similar wording, the fair rental value is \$100. If the invoice to the lessee states "rental \$106" and makes no reference to reimbursement, the fair rental value is \$100 (\$106 divided by 1.06). Assuming a 6.5 percent tax rate, the fair rental value is \$99.53 (\$106 divided by 1.065).</p> <p>Fair rental value includes any deficiency payment</p>	<p>lessor's use tax whether or not any statement to that effect is made to the lessee.</p> <p>Example:</p> <p>Assuming a 6 percent tax rate, if the invoice to the lessee states "rental \$100, tax reimbursement to the lessor \$6", "rental \$100, sales and use taxes \$6", or similar wording, the fair rental value is \$100. If the invoice to the lessee states "rental \$106" and makes no reference to reimbursement, the fair rental value is \$100 (\$106 divided by 1.06). Assuming a 6.5 percent tax rate, the fair rental value is \$99.53 (\$106 divided by 1.065).</p> <p>Fair rental value includes any deficiency payment</p>	

Regulation 1661, Leases of Mobile Transportation Equipment
Comparison of Proposed Staff Language
Current as of 11/05/1999

Action Item	Current Regulatory Language	Staff's Proposed Regulatory Language	Language Providing Consistency with Industry's Proposal for Regulation 1660	Summary Comments
	<p>required from the lessee on disposition of mobile transportation equipment at the termination of an open-end lease and such payment is subject to tax. Any surplus rentals, however, which are returned to the lessee at the termination of an open-end lease may be deducted from the total fair rental value reported for the period in which the surplus rentals are returned. In the alternative, a refund may be claimed for any tax paid within the applicable statute of limitations period on such surplus rentals.</p> <p>Fair rental value includes any capitalized cost reduction payment, which is a one-time payment by the lessee at the start of the lease to reduce the lessor's</p>	<p>required from the lessee on disposition of mobile transportation equipment at the termination of an open-end lease and such payment is subject to tax. Any surplus rentals, however, which are returned to the lessee at the termination of an open-end lease may be deducted from the total fair rental value reported for the period in which the surplus rentals are returned. In the alternative, a refund may be claimed for any tax paid within the applicable statute of limitations period on such surplus rentals.</p> <p>Fair rental value includes any capitalized cost reduction payment, which is a one-time payment by the lessee at the start of the lease to reduce the lessor's</p>	<p>required from the lessee on disposition of mobile transportation equipment at the termination of an open-end lease and such payment is subject to tax. Any surplus rentals, however, which are returned to the lessee at the termination of an open-end lease may be deducted from the total fair rental value reported for the period in which the surplus rentals are returned. In the alternative, a refund may be claimed for any tax paid within the applicable statute of limitations period on such surplus rentals.</p> <p>Fair rental value includes any capitalized cost reduction payment, which is a one-time payment by the lessee at the start of the lease to reduce the lessor's</p>	

Regulation 1661, Leases of Mobile Transportation Equipment
Comparison of Proposed Staff Language
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Action Item	Current Regulatory Language	Staff's Proposed Regulatory Language	Language Providing Consistency with Industry's Proposal for Regulation 1660	Summary Comments
	<p>investment and the lessee's rentals. The payment may either be reported for the period in which it became due from the lessee or it may be reported in equal increments over the lease term. On early termination of such a lease, any unreported portion of the capitalized cost reduction payment shall be reported for the period in which termination occurred.</p> <p>The term "fair rental value" includes any payments required by the lease, including amounts paid for personal property taxes on the leased property, whether assessed directly against the lessee or against the lessor, but do not include amounts paid to the lessor for:</p>	<p>investment and the lessee's rentals. The payment may either be reported for the period in which it became due from the lessee or it may be reported in equal increments over the lease term. On early termination of such a lease, any unreported portion of the capitalized cost reduction payment shall be reported for the period in which termination occurred.</p> <p>The term "fair rental value" includes any payments required by the lease, including amounts paid for personal property taxes on the leased property, whether assessed directly against the lessee or against the lessor, but do not include amounts paid to the lessor for:</p>	<p>investment and the lessee's rentals. The payment may either be reported for the period in which it became due from the lessee or it may be reported in equal increments over the lease term. On early termination of such a lease, any unreported portion of the capitalized cost reduction payment shall be reported for the period in which termination occurred.</p> <p>The term "fair rental value" includes any payments required by the lease, including amounts paid for personal property taxes on the leased property, whether assessed directly against the lessee or against the lessor, but do not include amounts paid to the lessor for:</p>	<p>If the Board adopts industry's proposal, for consistency, Regulations 1661 and 1669 should also be amended to incorporate industry's proposed regulatory language for Regulation 1660.</p>

Regulation 1661, Leases of Mobile Transportation Equipment
Comparison of Proposed Staff Language
Current as of 11/05/1999

Action Item	Current Regulatory Language	Staff's Proposed Regulatory Language	Language Providing Consistency with Industry's Proposal for Regulation 1660	Summary Comments
ACTION 1, "Amounts Not Included in Taxable Rental Receipts"	<p>(1) Collection costs, including attorney's fees, court costs, repossession charges, and storage fees; but tax does apply to any delinquent rental payments, including those collected by court action;</p> <p>(2) Insuring, repairing or refurbishing the leased property following a default;</p> <p>(3) Costs incurred in defending a court action or paying a tort judgement arising out of the lessee's operation of the leased property, or any premiums paid on insurance policies covering such court actions or tort judgements;</p> <p>(4) Costs incurred in disposing of the leased property at expiration or</p>	<p>(1) Collection costs, including attorney's fees, court costs, repossession charges, and storage fees; but tax does apply to any delinquent rental payments, including those collected by court action;</p> <p>(2) Insuring, repairing or refurbishing the leased property following a default;</p> <p>(3) Costs incurred in defending a court action or paying a tort judgement arising out of the lessee's operation of the leased property, or any premiums paid on insurance policies covering such court actions or tort judgements;</p> <p>(4) Costs incurred in disposing of the leased property at expiration or</p>	<p>(1) Collection costs, including attorney's fees, court costs, repossession charges, and storage fees; but tax does apply to any delinquent rental payments, including those collected by court action;</p> <p>(2) Insuring, repairing or refurbishing the leased property following a default;</p> <p>(3) Costs incurred in defending a court action or paying a tort judgement arising out of the lessee's operation of the leased property, or any premiums paid on insurance policies covering such court actions or tort judgements;</p> <p>(4) Costs incurred in disposing of the leased property at expiration or</p>	

**Regulation 1661, Leases of Mobile Transportation Equipment
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Action Item	Current Regulatory Language	Staff's Proposed Regulatory Language	Language Providing Consistency with Industry's Proposal for Regulation 1660	Summary Comments
	<p>earlier termination of the lease.</p> <p>(5) Late charges and interest thereon for failing to pay the rentals timely;</p> <p>(6) Separately stated optional insurance charges, maintenance or warranty contracts.</p>	<p>earlier termination of the lease.</p> <p>(5) Late charges and interest thereon for failing to pay the rentals timely;</p> <p>(6) Separately stated optional insurance charges, maintenance or warranty contracts.</p> <p><u>(7) Personal property taxes assessed against personal property where a bank or financial corporation is the lessor.</u></p>	<p>earlier termination of the lease.</p> <p>(5) Late charges and interest thereon for failing to pay the rentals timely;</p> <p>(6) Separately stated optional insurance charges, maintenance or warranty contracts.</p> <p><u>(7) Separately stated charges for personal property taxes, whether assessed directly against the lessee or against the lessor. The amount of personal property tax excluded from rentals subject to tax shall not exceed the actual amount of personal property tax assessed by the assessor to the assessee.</u></p>	<p>Staff recommends adding paragraph (7) to incorporate the opinions provided in Sales and Use Tax Annotations 330.3530 and 330.3533 to make it clear that personal property tax is not included in rentals subject to tax where a bank or financial corporation is the lessor.</p>

Regulation 1661, Leases of Mobile Transportation Equipment
Comparison of Proposed Staff Language
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Action Item	Current Regulatory Language	Staff's Proposed Regulatory Language	Language Providing Consistency with Industry's Proposal for Regulation 1660	Summary Comments
ACTION 1, "Amounts Not Included in Rentals Subject to Tax"				If the Board adopts industry's proposal on Regulation 1660, for consistency, Regulations 1661 and 1669 should also be amended to incorporate similar language.

Regulation 1669, Demonstration, Display and Use of Property Held for Resale - General
Comparison of Proposed Staff Language
Current as of 11/05/1999

Action Item	Current Regulatory Language	Staff's Proposed Regulatory Language	Language Providing Consistency with Industry's Proposal for Regulation 1660	Summary Comments
	<p>Regulation 1669, Demonstration, Display and Use of Property Held for Resale – General</p> <p>(f) Use of Rental Value as a Measure of Tax.</p> <p>(1) Where Applicable.</p> <p>(D) Mobile Transportation Equipment Leased While Being Held for Resale</p> <p>1. Fair Rental Value. “Fair rental value” means the rentals required by the lease, except where the Board determines the rental receipts are nominal. Fair rental value does not include any payment made by the lessee to reimburse the lessor for the lessor’s use tax, whether or not the amount is separately stated, and regardless of how the</p>	<p>Regulation 1669, Demonstration, Display and Use of Property Held for Resale – General</p> <p>(f) Use of Rental Value as a Measure of Tax.</p> <p>(1) Where Applicable.</p> <p>(D) Mobile Transportation Equipment Leased While Being Held for Resale</p> <p>1. Fair Rental Value. “Fair rental value” means the rentals required by the lease, except where the Board determines the rental receipts are nominal. Fair rental value does not include any payment made by the lessee to reimburse the lessor for the lessor’s use tax, whether or not the amount is separately stated, and regardless of how the</p>	<p>Regulation 1669, Demonstration, Display and Use of Property Held for Resale – General</p> <p>(f) Use of Rental Value as a Measure of Tax.</p> <p>(1) Where Applicable.</p> <p>(D) Mobile Transportation Equipment Leased While Being Held for Resale</p> <p>1. Fair Rental Value. “Fair rental value” means the rentals required by the lease, except where the Board determines the rental receipts are nominal. Fair rental value does not include any payment made by the lessee to reimburse the lessor for the lessor’s use tax, whether or not the amount is separately stated, and regardless of how the</p>	

Regulation 1669, Demonstration, Display and Use of Property Held for Resale - General
Comparison of Proposed Staff Language
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Action Item	Current Regulatory Language	Staff's Proposed Regulatory Language	Language Providing Consistency with Industry's Proposal for Regulation 1660	Summary Comments
	<p>charge is designated in the lease documentation and invoices. Lump-sum charges to the lessee will be assumed to include reimbursement for the lessor's use tax whether or not any statement to that effect is made to the lessee.</p> <p>Example:</p> <p>Assuming a 6 percent tax rate, if the invoice to the lessee states "rental \$100, tax reimbursement to the lessor \$6", "rental \$100, sales and use taxes \$6", or similar wording, the fair rental value is \$100. If the invoice to the lessee states "rental \$106" and makes no reference to reimbursement, the fair rental value is \$100 (\$106 divided by 1.06). Assuming a 6.5 percent tax rate, the fair rental value is</p>	<p>charge is designated in the lease documentation and invoices. Lump-sum charges to the lessee will be assumed to include reimbursement for the lessor's use tax whether or not any statement to that effect is made to the lessee.</p> <p>Example:</p> <p>Assuming a 6 percent tax rate, if the invoice to the lessee states "rental \$100, tax reimbursement to the lessor \$6", "rental \$100, sales and use taxes \$6", or similar wording, the fair rental value is \$100. If the invoice to the lessee states "rental \$106" and makes no reference to reimbursement, the fair rental value is \$100 (\$106 divided by 1.06). Assuming a 6.5 percent tax rate, the fair rental value is</p>	<p>charge is designated in the lease documentation and invoices. Lump-sum charges to the lessee will be assumed to include reimbursement for the lessor's use tax whether or not any statement to that effect is made to the lessee.</p> <p>Example:</p> <p>Assuming a 6 percent tax rate, if the invoice to the lessee states "rental \$100, tax reimbursement to the lessor \$6", "rental \$100, sales and use taxes \$6", or similar wording, the fair rental value is \$100. If the invoice to the lessee states "rental \$106" and makes no reference to reimbursement, the fair rental value is \$100 (\$106 divided by 1.06). Assuming a 6.5 percent tax rate, the fair rental value is</p>	

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Action Item	Current Regulatory Language	Staff's Proposed Regulatory Language	Language Providing Consistency with Industry's Proposal for Regulation 1660	Summary Comments
	<p>\$99.53 (\$106 divided by 1.065).</p> <p>Fair rental value includes any deficiency payment required from the lessee on disposition of mobile transportation equipment at the termination of an open-end lease and such payment is subject to tax. Any surplus rentals, however, which are returned to the lessee at the termination of an open-end lease may be deducted from the total fair rental value reported for the period in which the surplus rentals are returned. In the alternative, a refund may be claimed for any tax paid within the applicable statute of limitations period on such surplus rentals.</p> <p>Fair rental value includes any capitalized cost</p>	<p>\$99.53 (\$106 divided by 1.065).</p> <p>Fair rental value includes any deficiency payment required from the lessee on disposition of mobile transportation equipment at the termination of an open-end lease and such payment is subject to tax. Any surplus rentals, however, which are returned to the lessee at the termination of an open-end lease may be deducted from the total fair rental value reported for the period in which the surplus rentals are returned. In the alternative, a refund may be claimed for any tax paid within the applicable statute of limitations period on such surplus rentals.</p> <p>Fair rental value includes any capitalized cost</p>	<p>\$99.53 (\$106 divided by 1.065).</p> <p>Fair rental value includes any deficiency payment required from the lessee on disposition of mobile transportation equipment at the termination of an open-end lease and such payment is subject to tax. Any surplus rentals, however, which are returned to the lessee at the termination of an open-end lease may be deducted from the total fair rental value reported for the period in which the surplus rentals are returned. In the alternative, a refund may be claimed for any tax paid within the applicable statute of limitations period on such surplus rentals.</p> <p>Fair rental value includes any capitalized cost</p>	

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Action Item	Current Regulatory Language	Staff's Proposed Regulatory Language	Language Providing Consistency with Industry's Proposal for Regulation 1660	Summary Comments
	<p>reduction payment, which is a one-time payment by the lessee at the start of the lease to reduce the lessor's investment and the lessee's rentals. The payment may either be reported for the period in which it became due from the lessee or it may be reported in equal increments over the lease term. On early termination of such a lease, any unreported portion of the capitalized cost reduction payment shall be reported for the period in which termination occurred.</p> <p>The term "fair rental value" includes any payments required by the lease, including amounts paid for personal property taxes on the leased property, whether assessed directly against the lessee or against the lessor, but</p>	<p>reduction payment, which is a one-time payment by the lessee at the start of the lease to reduce the lessor's investment and the lessee's rentals. The payment may either be reported for the period in which it became due from the lessee or it may be reported in equal increments over the lease term. On early termination of such a lease, any unreported portion of the capitalized cost reduction payment shall be reported for the period in which termination occurred.</p> <p>The term "fair rental value" includes any payments required by the lease, including amounts paid for personal property taxes on the leased property, whether assessed directly against the lessee or against the lessor, but</p>	<p>reduction payment, which is a one-time payment by the lessee at the start of the lease to reduce the lessor's investment and the lessee's rentals. The payment may either be reported for the period in which it became due from the lessee or it may be reported in equal increments over the lease term. On early termination of such a lease, any unreported portion of the capitalized cost reduction payment shall be reported for the period in which termination occurred.</p> <p>The term "fair rental value" includes any payments required by the lease, including amounts paid for personal property taxes on the leased property, whether assessed directly against the lessee or against the lessor, but</p>	<p>If the Board adopts industry's proposal, for consistency, Regulations 1661 and 1669 should also be amended to incorporate industry's proposed regulatory language for Regulation 1660.</p>

Regulation 1669, Demonstration, Display and Use of Property Held for Resale - General
Comparison of Proposed Staff Language
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Action Item	Current Regulatory Language	Staff's Proposed Regulatory Language	Language Providing Consistency with Industry's Proposal for Regulation 1660	Summary Comments
ACTION 1, "Amounts Not Included in Taxable Rental Receipts"	<p>does not include amounts paid to the lessor for:</p> <p style="padding-left: 40px;">a. Collection costs, including attorney's fees, court costs, repossession charges, and storage fees; but tax does apply to any delinquent rental payments, including those collected in court action;</p> <p style="padding-left: 40px;">b. Insuring, repairing or refurbishing the leased property following a default;</p> <p style="padding-left: 40px;">c. Cost incurred in defending a court action or paying a tort judgement arising out of the lessee's operation of the leased property, or any premiums paid on insurance policies covering such court actions or tort judgements;</p> <p style="padding-left: 40px;">d. Cost incurred in</p>	<p>does not include amounts paid to the lessor for:</p> <p style="padding-left: 40px;">a. Collection costs, including attorney's fees, court costs, repossession charges, and storage fees; but tax does apply to any delinquent rental payments, including those collected in court action;</p> <p style="padding-left: 40px;">b. Insuring, repairing or refurbishing the leased property following a default;</p> <p style="padding-left: 40px;">c. Cost incurred in defending a court action or paying a tort judgement arising out of the lessee's operation of the leased property, or any premiums paid on insurance policies covering such court actions or tort judgements;</p> <p style="padding-left: 40px;">d. Cost incurred in</p>	<p>does not include amounts paid to the lessor for:</p> <p style="padding-left: 40px;">a. Collection costs, including attorney's fees, court costs, repossession charges, and storage fees; but tax does apply to any delinquent rental payments, including those collected in court action;</p> <p style="padding-left: 40px;">b. Insuring, repairing or refurbishing the leased property following a default;</p> <p style="padding-left: 40px;">c. Cost incurred in defending a court action or paying a tort judgement arising out of the lessee's operation of the leased property, or any premiums paid on insurance policies covering such court actions or tort judgements;</p> <p style="padding-left: 40px;">d. Cost incurred in</p>	

**Regulation 1669, Demonstration, Display and Use of Property Held for Resale - General
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Action Item	Current Regulatory Language	Staff's Proposed Regulatory Language	Language Providing Consistency with Industry's Proposal for Regulation 1660	Summary Comments
ACTION 1,	<p>disposing of the leased property at expiration or earlier termination of the lease;</p> <p>e. Late charges and interest thereon for failing to pay the rentals timely;</p> <p>f. Separately stated optional insurance charges, maintenance or warranty contracts.</p>	<p>disposing of the leased property at expiration or earlier termination of the lease;</p> <p>e. Late charges and interest thereon for failing to pay the rentals timely;</p> <p>f. Separately stated optional insurance charges, maintenance or warranty contracts.</p> <p><u>g. Personal property taxes assessed against personal property where a bank or financial corporation is the lessor.</u></p>	<p>disposing of the leased property at expiration or earlier termination of the lease;</p> <p>e. Late charges and interest thereon for failing to pay the rentals timely;</p> <p>f. Separately stated optional insurance charges, maintenance or warranty contracts.</p> <p><u>g. Separately stated charges for personal property taxes, whether assessed directly against the lessee or against the lessor. The amount of personal property tax excluded from rentals subject to tax shall not exceed the actual amount of personal property tax assessed by the assessor to the assessee.</u></p>	<p>Staff recommends adding paragraph (g) to incorporate the opinions provided in Sales and Use Tax Annotations 330.3530 and 330.3533 to make it clear that personal property tax is not included in rentals subject to tax where a bank or financial corporation is the lessor.</p>

Regulation 1669, Demonstration, Display and Use of Property Held for Resale - General
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Action Item	Current Regulatory Language	Staff's Proposed Regulatory Language	Language Providing Consistency with Industry's Proposal for Regulation 1660	Summary Comments
"Amounts Not Included in Rentals Subject to Tax"				If the Board adopts industry's proposal for Regulation 1660, for consistency, Regulations 1661 and 1669 should also be amended to incorporate similar language.